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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36251]

Progressive Rail Incorporated—Lease Exemption with Interchange Commitment—Soo Line Railroad Company and Dakota, Minnesota & Eastern Railroad Corporation

Progressive Rail Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to (1) renew its lease from Soo Line Railroad Company (Soo Line) of two lines of railroad between Northfield, Minn., and Lakeville, Minn. (Lakeville Line), and between Rosemount, Minn., and Eagan, Minn. (Eagandale Line); and (2) lease from Soo Line and Dakota, Minnesota & Eastern Railroad Corporation (DM&E)¹ a line of railroad between Faribault, Minn., and Northfield, Minn. (Faribault Line).

The Lakeville Line extends approximately 21 miles from UP milepost 309.69 at Northfield through UP milepost 313.77 (CP milepost 52.90) to CP milepost 35.25 at Lakeville. The Lakeville Line also includes the 0.1-mile segment of track known as the Cannon Falls Branch between CP milepost 0.00 and CP milepost 0.10 at Northfield. The Eagandale Line extends approximately 12 miles from UP milepost 332.05 at Rosemount through UP milepost 333.85 (CP milepost 150.80) to CP milepost 160.70 at Eagan. The

¹ Soo Line and DM&E are affiliated railroads under common control of Canadian Pacific Railway Company (CP). Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R., FD 35081 (STB served Sept. 30, 2008).

Faribault Line extends for approximately nine miles between UP milepost 300.50² at Faribault and UP milepost 309.69 at Northfield. According to PGR, DM&E owns the Faribault Line from Comus to Faribault, and Soo Line owns the Faribault Line from Comus to Northfield. PGR states that the Lakeville, Eagandale, and Faribault Lines (collectively, the Lines) total approximately 42 miles.

PGR states that it has entered into a new lease agreement with Soo Line and DM&E that renews PGR's lease of the Lakeville and Eagandale Lines for an additional 15 years and allows PGR to lease and operate the Faribault Line for a term of 15 years.

PGR states that it currently operates the Lakeville and Eagandale Lines pursuant to Progressive Rail Inc.—Lease & Operation Exemption—Soo Line Railroad, FD 34496 (STB served May 19, 2004) and the Faribault Line pursuant to Progressive Rail Inc.—Acquisition & Operation Exemption—Rail Lines of Union Pacific Railroad, FD 34476 (STB served Apr. 7, 2004). PGR states that it will continue to operate the Lines under the new lease agreement.

According to PGR, the new lease agreement includes an interchange commitment. As required under 49 C.F.R. § 1150.43(h)(1), PGR provided additional information regarding the interchange commitment.

PGR certifies that its projected revenues resulting from this transaction will not result in the creation of a Class I or Class II rail carrier, but states that its projected annual

² In its notice of exemption, the map at Exhibit A-1 referred to UP milepost 300.35. On December 19, 2018, PGR filed a supplement noting that the map should have referred to UP milepost 300.50.

revenues will exceed \$5 million following the transaction. Accordingly, PGR is required by Board regulations to send notice of the transaction to the national offices of the labor unions with employees on the affected lines, to post a copy of the notice at the workplace of the employees on the affected lines, and to certify to the Board that it has done so, at least 60 days before the exemption is to become effective. 49 C.F.R. § 1150.42(e). PGR filed its certification on November 15, 2018.

Concurrently with its verified notice, however, PGR filed a petition for partial waiver of the 60-day advance labor notice requirement to permit the exemption to take effect on January 9, 2019. PGR's waiver request will be addressed in a separate decision.

PGR states that it expects to consummate the transaction on or shortly after the effective date of this exemption. The Board will establish the effective date in its separate decision on the waiver request.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than January 2, 2019.

An original and 10 copies of all pleadings, referring to Docket No. FD 36251, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

Board decisions and notices are available at www.stb.gov.

Decided: December 19, 2018.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.